UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS

AND INTERFERENCES

Ex parte JOSEPH COSENTINO

Appeal No. 2006-0503

Application No. 09/774,992[1]

ON BRIEF

Before THOMAS, JERRY SMITH, and SAADAT, Administrative Patent Judges.
SAADAT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1-21, which are all of the claims pending in this application.

We affirm.

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[1] Application for patent filed January 31, 2001.

BACKGROUND

Appellant's invention is directed generally to a method and apparatus for operating a financial document processing in the form of an image-based check processing system. An understanding of the invention can be derived from a reading of exemplary independent claim 1, which is reproduced as follows:

> 1. A method of operating a financial document processing system, the method comprising the steps of:
>
> (a) monitoring a number of operating parameters associated with operation of the system;
>
> (b) storing a number of operating parameters of step (a) into a data base;
>
> (c) retrieving a fault finding test script file which contains a number of tests which can be performed on the system;
>
> (d) performing tests contained in the retrieved fault finding test script file of step (c) using at least some of the parameters stored in the database to provide a number of signals indicative of a potential fault condition; and
>
> (e) updating the retrieved fault finding test script file of step (c) based upon test results from tests which have been performed on the system in step (d).

The Examiner relies on the following references:

Garg et al. (Garg)	6,327,677	Dec. 4, 2001 (filed Apr. 27, 1998)
Bliley et al. (Bliley)	6,622,264	Sep. 16, 2003 (filed Nov. 22, 1999)

Claims 1-5, 8-12 and 15-19 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Garg.

Claims 6, 7, 13, 14, 20 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Garg and Bliley.

Rather than reiterate the opposing arguments, reference is made to the brief[2] and answer for the respective positions of Appellant and the Examiner. Only those arguments actually made by Appellant have been considered in this decision. Arguments which Appellant could have made but chose not to make in the brief have not been considered (37 CFR § 41.37(c)(1)(vii)).

OPINION

In rejecting the claims under 35 U.S.C. § 102, the Examiner specifically characterizes the cognitive signature module of Garg as the claimed fault finding test script file wherein the module stores one or more cognitive signatures (answer, page 3). Appellant argues that the cognitive signatures disclosed in Garg are simply historical data and not fault finding test script files containing tests which can be performed on the system (brief, pages 3 & 4). The Examiner responds by stating that the cognitive signatures are test script files as they are used to compare and test the operating parameters that are retrieved from the database (answer, page 7). The examiner further argues that the historical data contained in the cognitive signatures should

[2] For Appellant's arguments we refer to the supplemental brief (filed August 16, 2004) as the supplemental Appeal Brief which accompanied a request for Reinstating the Appeal.

also be considered a part of the test script files (answer, page 8).

Garg describes a method and system for monitoring networks and detecting problems by comparing collected data with historical data which is updated to include the recently collected data (abstract). Upon detection of problems, the system generates an alarm which may include generation of e-mails or pager messages (id.). Although the historical data is represented in multiple cognitive signatures, contrary to Appellant's position, they are not the same as historical data. A cognitive signature represents the normal operating mode of a system or device and is generated by cognitive signature module 38 (shown in Figure 2) using the actual collected data (col. 5, lines 28-40). We agree with the Examiner that the cognitive signatures, which are correctly identified in the statement of the rejection (answer, page 3) as being generated by the "cognitive signature module," are used in the analysis of the data by the test script files. Garg further describes analysis module 38 (shown in Figure 7) for analyzing the network performance by comparing the collected data with the cognitive signatures (col. 6, lines 6-14). The analysis module includes analysis rules 116 and compares the current data with one or more cognitive signatures or threshold values and activates a

corresponding alarm (col. 12, lines 9-20). Therefore, the cognitive signatures are a part of the test script files which, in turn, are used by the analysis module for analyzing the operation of the network.

Appellant further argues that while the cognitive signatures in Garg may be updated, there is no indication that a fault finding test script file is being updated (brief, page 4). In response, the Examiner points out that the test script files are updated when the test results of the collected data provide an updated cognitive signature to be used in subsequent testings (answer, page 8). We agree with the Examiner that changes to the collected data are reflected in the cognitive signatures which are obtained using the historical data. In that regard, Garg describes the cognitive signatures as dynamic which are modified as new data is collected from the network (col. 7, lines 31-35). Thus, updating the cognitive signatures indicates that the test script files are updated based on the test results since, as determined above, the cognitive signatures are a part of the test script files. This is consistent with Appellant's specification wherein the only updating of the test script files described in the flow charts shown in Figures 4-6 appears to be limited to the data or values used in the script which is stored and retrieved later, not to the script itself or how the steps of comparing and

taking action is carried out. In fact what appellant argues as missing in the prior art is not required in the claims either as evidenced by its absence in appellant's specification.

Based on our findings above, we agree with the Examiner that Garg prima facie anticipates the claimed subject matter as the applied prior art reference describes every element of the claimed invention. See In re Paulsen, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994). Accordingly, the 35 U.S.C. § 102(e) rejection of claims 1-5, 8-12 and 15-19 is sustained.

Turning now to the 35 U.S.C. § 103 rejection of the remaining claims, we note that Appellant does not provide any separate arguments allowing these claims to fall with independent claim 1. In view of our discussion of claim 1 above, we also sustain the 35 U.S.C. § 103 rejection of claims 6, 7, 13, 14, 20 and 21 over Garg and Bliley.

CONCLUSION

To summarize, the decision of the Examiner to reject claims 1-5, 8-12 and 15-19 under 35 U.S.C. § 102 and rejecting claims 6, 7, 13, 14, 20 and 21 under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

JAMES D. THOMAS)
Administrative Patent Judge)
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JERRY SMITH) BOARD OF PATENT
Administrative Patent Judge) APPEALS
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) INTERFERENCES
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